



# Fact Sheet 10

## Can I apply for Non-Complying development?

### What is Non-Complying development?

Non-Complying developments are listed in the Development Plan and are land uses which are not envisaged or encouraged within a particular area. These uses will generally be inconsistent with the objectives and principles of the zone or policy area that they are in, for example industrial developments in a residential zone or a new high rise building in a heritage policy area. Non-Complying development is not usually approved unless it is a special circumstance.

### Can I apply for a Non-Complying development?

An application can still be made to Council for a Non-Complying development if the applicant believes that it has significant merit. The lodgement of a Non-Complying application incurs a number of expensive fees. You should seek the advice of your local Council before preparing your application.

### What process will my Non-Complying application follow?

The assessment process for a Non-Complying development application involves a number of steps.

The first step when a Non-Complying application is made is for the Council staff to undertake a preliminary assessment. From this, they will decide to either refuse the application or proceed with a full assessment. If the application is refused at this time the applicant has no right of appeal against the decision. If the application is allowed to continue there is no guarantee that it will be approved. If Council agrees to proceed with full assessment of the application a report called a Statement of Effect is required to be submitted. This must be prepared by a qualified planner.

The second step, if the Council decides to proceed with the application, is for the Council planner to undertake a full assessment of the development. After Council planners have assessed the application they will write a report recommending either approval or refusal of the application to the Council Development Assessment Panel.

The third step is for the application, staff recommendation and report to go to a Council Development Assessment Panel meeting, where a decision will be made to support or refuse the application. Should Council refuse the development, the applicant has no right to appeal the decision. If Council supports the application then the Development Assessment Commission, the state planning authority, must also make a decision on the development.

The fourth step is for the Development Assessment Commission to assess the application. If the Development Assessment Commission does not support the application it will be refused. If the application is refused, the applicant has no right of appeal. If the Development Assessment Commission approves the application, a Decision Notification Form will be sent to the applicant informing them of the approval and any conditions placed upon the development.



**MOUNT BARKER**  
DISTRICT COUNCIL

This document has been developed by the Planning Institute of Australia and the Local Government Association of South Australia.



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